IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 18572 of 2007(J)

PETITIONER:

BASHEER, AGED 38,
S/O. SAIDU MOHAMMED, SHRAMPIKKAL VEEDU, VALLOM,
RAYONPURAM P.O., PERUMBAVOOR.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE TAHSILDAR,
TALUK OFFICE, KUNNATHUNAD TALUK.

3. PERUMBAVOOR MUNICIPALITY,
REPRESENTED BY ITS SECRETARY.

4. THE VILLAGE OFFICER, PERUMBAVOOR.

BY GOVT. PLEADER SRI.K.J.MOHAMMED ANZAR FOR R1, R2 & R4
ADV.SRI.V.M.KURIAN, SC FOR R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.18572 of 2007

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Dated this the 18th day of June, 2007

JUDGMENT

Prayers in the writ petition is to direct the first respondent to consider Exts.P2 and P3 and to keep in abeyance Ext.P1 till a decision is taken on the stay petition and appeal. The further prayer is for a direction to the third respondent Municipality to produce the entire files and document of petitioner's shop before respondents 1 and 2 and to consider Ext.P10 in the interests of justice and to keep in abeyance proceedings against the petitioner.

2. Case of the petitioner in brief is as follows:

He is conducting a small shop for his livelihood at Perumbavoor Municipality. Old number of the building is IX/310. The third respondent under a project of the first respondent has built small shops and handed over to the parties. It was being transferred from time to time and tax was being paid to the third respondent. Petitioner has made necessary enquiries in the office of the third respondent and it is informed that the building has been numbered and has been fully

authorised. Petitioner claimed that he is a small worker, working for his livelihood. He is a cancer patient. Ext.P1 is a notice under Section 11(3) of the Kerala Land Conservancy Act. According to the petitioner he preferred Ext.P2 appeal under Section 16 of the Act and also a stay petition under the same section as Ext.P3.

3. I heard learned counsel for the petitioner, learned Government Pleader and the learned counsel for the Municipality.

The writ petition is disposed of directing the first respondent to consider and take a decision on Exts.P2 and P3 in accordance with law after affording an opportunity of hearing to the petitioner. There will also be a direction to pass appropriate orders on Ext.P3 application for stay within a period of two weeks from the date of receipt of a copy of this judgment. Till orders are passed on Ext.P3 stay application, Ext.P1 shall be kept in abeyance. Regarding the prayer to direct the third respondent to produce the entire files before respondents 1 and 2, petitioner has already moved Ext.P10. Admittedly the Municipality is a party in Ext.P2 appeal. It is for the petitioner to seek orders from the first respondent, in which case the first respondent will pass

appropriate orders in the interests of justice.

(K.M. JOSEPH, JUDGE)

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